

REMARKS

This Second Preliminary Amendment is being submitted in response to the recent Board of Appeal decisions in U.S. Patent applications 10/000,311; 09/771,938; and 09/772,520 and the applicability of the reasoning of those Board decisions to the claims and arguments in the present case. Applicant respectfully submits that this Second Preliminary Amendment will not unduly interfere with the preparation of the first Office Action.

The present application relates to inbred maize line PH87H. Claims 1-12 are pending in the present application. Claim 2 was amended and claims 11 and 12 were added in the Preliminary Amendment filed June 16, 2005. Claims 7 and 9 have been currently amended. Applicant acknowledges the addition of claims 13 through 34. The new claims do not add new matter as there is support for the claims in the originally filed specification. Support for the specific items can be found within the specification for herbicide tolerance on pages 39-41; insect resistance and resistance to bacterial, fungal, nematode or viral disease on pages 37-39; yield enhancement on page 32; waxy starch and improved nutritional quality on page 32; male sterility on pages 2-3 and 42; restoration of male fertility on pages 2-3; and 0-5 generations on pages 3-7. In addition, Applicant has amended the specification to clarify the deposit language. No new matter has been added. Entry of this Second Preliminary Amendment and approval of the changes is respectfully requested.

In conclusion, Applicant submits in light of the above amendments and remarks, the claims as amended are in a condition for allowance, and reconsideration is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

Please charge Deposit Account No. 26-0084 the amount of \$1,100.00 for 14 new claims over 20 (\$50 each) and 2 new independent claims over 3 (\$200 each). No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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